

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT				1. CONTRACT ID CODE <div style="text-align: center;">J</div>		PAGE OF PAGES <div style="text-align: center;">1 2</div>	
2. AMENDMENT/MODIFICATION NO. 0002		3. EFFECTIVE DATE 12-Aug-2005		4. REQUISITION/PURCHASE REQ. NO. W16ROE-5174-5087		5. PROJECT NO.(If applicable)	
6. ISSUED BY USA ENGINEER DISTRICT, NEW YORK ATTN:CENAN-CT ROOM 1843 26 FEDERAL PLAZA NEW YORK NY 10278		CODE W912DS		7. ADMINISTERED BY (If other than item 6) <div style="text-align: center; font-weight: bold;">See Item 6</div>		CODE	
8. NAME AND ADDRESS OF CONTRACTOR (No., Street, County, State and Zip Code)				X		9A. AMENDMENT OF SOLICITATION NO. W912DS-05-B-0014	
				X		9B. DATED (SEE ITEM 11) 20-Jul-2005	
						10A. MOD. OF CONTRACT/ORDER NO.	
						10B. DATED (SEE ITEM 13)	
CODE		FACILITY CODE					
11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS							
<input checked="" type="checkbox"/> The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offer <input type="checkbox"/> is extended, <input checked="" type="checkbox"/> is not extended. Offer must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended by one of the following methods: (a) By completing Items 8 and 15, and returning _____ copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.							
12. ACCOUNTING AND APPROPRIATION DATA (If required)							
13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS. IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.							
A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.							
B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(B).							
C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:							
D. OTHER (Specify type of modification and authority)							
E. IMPORTANT: Contractor <input type="checkbox"/> is not, <input type="checkbox"/> is required to sign this document and return _____ copies to the issuing office.							
14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.) The purpose of this modification is to incorporate the New York DEC Federal Consistency Determination/Water Quality Certification document into the solicitation. Bid opening date remains unchanged, 19 August 2005, 2:00 PM. Note: Bidders must acknowledge receipt of this amendment by the date specified in the solicitation (or as amended) by one of the following methods: In the space provided on the SF1442, by separate letter, or by telegram, or by signing the block 15 below. FAILURE TO ACKNOWLEDGE AMENDMENTS BY THE DATE AND TIME SPECIFIED MAY RESULT IN REJECTION OF YOUR BID IN ACCORDANCE WITH THE LATE BID, LATE MODIFICATIONS OF BIDS OR LATE WITHDRAWAL OF BIDS (FAR 14.304)							
Except as provided herein, all terms and conditions of the document referenced in Item 9A or 10A, as heretofore changed, remains unchanged and in full force and effect.							
15A. NAME AND TITLE OF SIGNER (Type or print)				16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print)			
				TEL: _____ EMAIL: _____			
15B. CONTRACTOR/OFFEROR _____ (Signature of person authorized to sign)		15C. DATE SIGNED		16B. UNITED STATES OF AMERICA BY _____ (Signature of Contracting Officer)		16C. DATE SIGNED 12-Aug-2005	

SECTION SF 30 BLOCK 14 CONTINUATION PAGE

SUMMARY OF CHANGES

SECTION SF 30 - BLOCK 14 CONTINUATION PAGE

The following have been added by full text:

AMENDMENT 0002

W912DS-05-B-0014

Amendment No. 2

Bid opening date, is scheduled for 19 August 2005 at 2:00 P.M., local time

1. The following changes shall be made to the specifications.

1) Specifications:

Section 00901

1-Add the New York DEC Federal Consistency Determination/Water Quality Certification

(End of Summary of Changes)

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

DEC PERMIT NUMBER 2-6499-00001/00002
PROJECT NAME: USACE Arthur Kill 40'/41' Deepening



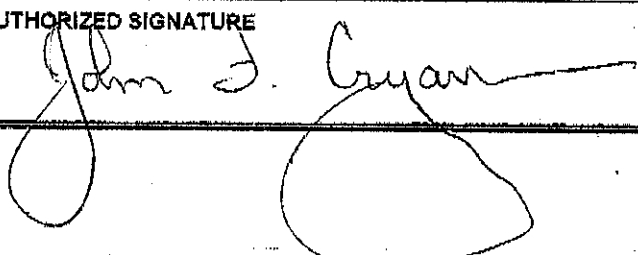
Under the Environmental Conservation Law (ECL)

EFFECTIVE DATE: April 20, 2001
MODIFICATION #7 DATE: August 11, 2005
EXPIRATION DATE(S): December 31, 2007

TYPE OF PERMIT ☐ New ☐ Renewal ☒ Modification #4 (DIM) ☐ Permit to Construct ☐ Permit to Operate☒ 6NYCRR 608: Water Quality Certification

PERMIT ISSUED TO US Army Corps of Engineers			TELEPHONE NUMBER (212) 264-0100
ADDRESS OF PERMITTEE Jacob K. Javits Federal Building, New York, NY 10278-0090			
CONTACT PERSON FOR PERMITTED WORK Michael Millard, Project Manager			TELEPHONE NUMBER (212) 264-2054
NAME AND ADDRESS OF PROJECT/FACILITY Arthur Kill / Howland Hook Navigational Channel: 40'/41' Deepening			
LOCATION OF PROJECT/FACILITY North and West shore of Staten Island from the confluence with the Kill van Kull to the GATX facility			
COUNTY Richmond	CITY Staten Island	WATERCOURSE Arthur Kill	NYTM COORDINATES
DESCRIPTION OF AUTHORIZED ACTIVITY: Removal of approximately 3.25 million cubic yards of sediment, rock, glacial till and clay, via blasting and dredging, to obtain the navigational depth of 40'/41'. 1: Confluence of the Kill van Kull to the southernmost berth at Howland Hook Container Terminal, a. Channel to be dredged to the authorized depth of 44.5 feet, • 41' navigational depth plus 2' safety clearance plus 1.5' of overdraft. 2: Southernmost berth at Howland Hook to the southern property line of the GATX facility, a. Channel to be dredged to the authorized depth of 43.5 feet, 1: 40' navigational depth plus 2' safety clearance plus 1.5' of overdraft. 3: Pipeline location work 4: Pipeline Removal.			

By acceptance of this permit, the Permittee agrees that the permit is contingent upon strict compliance with the ECL, all applicable regulations, the General Conditions specified (see page 2) and any Special Conditions included as part of this permit.

REGIONAL PERMIT ADMINISTRATOR: John F. Cryan	ADDRESS 47-40 21 Street Long Island City, NY 11101		
AUTHORIZED SIGNATURE 	DATE August 11, 2005	Page 1 of 8	

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

Item A: Permittee Accepts Legal Responsibility and Agrees to Indemnification

The permittee has accepted expressly, by the execution of the application, the full legal responsibility for all damages and costs, direct or indirect, of whatever nature and by whomever suffered, for liability it incurs resulting from activity conducted pursuant to this permit or in noncompliance with this permit and has agreed to indemnify and save harmless the State from suits, actions, damages and costs of every name and description resulting from such activity.

Item B: Permittee to Require it's Contractors to Comply with Permit

The permittee shall require its independent contractors, employees, agents and assigns to read, understand and comply with this permit, including all special conditions, and such persons shall be subject to the same sanctions for violations of this permit as those prescribed for the permittee.

Item C: Permittee Responsible for Obtaining Other Required Permits

The permittee is responsible for obtaining any other permits, approvals, lands, easements and rights-of-way that may be required for this project.

Item D: No Right to Trespass or Interfere with Riparian Rights

This permit does not convey to the permittee any right to trespass upon the lands or interfere with the riparian rights of others in order to perform the permitted work nor does it authorize the impairment of any rights, title, or interest in real or personal property held or vested in a person not a party to the permit.

GENERAL CONDITIONS

General Condition 1: Facility Inspection by the Department

The permitted site or facility, including relevant records, is subject to inspection at reasonable hours and intervals by an authorized representative of the Department of Environmental Conservation (the Department) to determine whether the permittee is complying with this permit and the ECL. Such representative may order the work suspended pursuant to ECL 71-0301 and SAPA 401(3).

The permittee shall provide a person to accompany the Department's representative during an inspection to the permit area when written or verbal notification is provided by the Department at least 24 hours prior to such inspection.

A copy of this permit, including all referenced maps, drawings and special conditions, must be available for inspection by the Department at all times at the project site. Failure to produce a copy of the permit upon request by a Department representative is a violation of this permit.

General Condition 2: Relationship of this Permit to Other Department Orders and Determinations

Unless expressly provided for by the Department, issuance of this permit does not modify, supersede or rescind any order or determination previously issued by the Department or any of the terms, conditions or requirements contained in such order or determination.

General Condition 3: Request for Permit Renewals or Modifications

The permittee must submit a separate written request to the Department for renewal, modification or transfer of this permit. Such request must include any forms or supplemental information the Department requires. Any renewal, modification or transfer granted by the Department must be in writing.

The permittee must submit a renewal request at least:

- a) 180 days before expiration of permits for State Pollutant Discharge Elimination System (SPDES), Hazardous Waste Management Facilities (HWMF), major Air Pollution Control (APC) and Solid Waste Management Facilities (SWMF); and
- b) 30 days before expiration of all other permit types.

Request for permit renewal or modification are to be submitted to:

NYSDEC, Regional Permit Administrator, Region 2
47-40 21ST Street, Long Island City, NY 11101

General Condition 4: Permit Modifications, Suspensions and Revocations by the Department

The Department reserves the right to modify, suspend or revoke this permit when:

- a) the scope of the permitted activity is exceeded or a violation of any condition of the permit or provisions of the ECL and pertinent regulations is found;
- b) the permit was obtained by misrepresentation or failure to disclose relevant facts;
- c) new material information is discovered; or
- d) environmental conditions, relevant technology, or applicable law or regulation have materially changed since the permit was issued.

DEC PERMIT NUMBER

2-6499-00001/00002

PROJECT NAME

USACE Arthur Kill 40'/41' Deepening

PAGE 2 OF 8

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

ADDITIONAL GENERAL CONDITIONS FOR ARTICLES 15,17, 24, 25, and 6 NYCRR Part 608

- 5: That if future operations by the State of New York require an alteration in the position of the structure or work herein authorized, or if, in the opinion of the Department of Environmental Conservation it shall cause unreasonable obstruction to the free navigation of said waters or flood flows or endanger the health, safety or welfare of the people of the State, or cause loss or destruction of the natural resources of the State, the owner may be ordered by the Department to remove or alter the structural work, obstructions, or hazards caused thereby without expense to the State, and if, upon the expiration or revocation of this permit, the structure, fill, excavation, or other modification of the watercourse hereby authorized shall not be completed, the owners, shall, without expense to the State, and to such extent and in such time and manner as the Department of Environmental Conservation may require, remove all or any portion of the uncompleted structure or fill and restore to its former condition the navigable and flood capacity of the watercourse. No claim shall be made against the State of New York on account of any such removal or alteration.
- 6: That the State of New York shall in no case be liable for any damage or injury to the structure or work herein authorized which may be caused by or result from future operations undertaken by the State for the conservation or improvement of navigation, or for other purposes, and no claim or right to compensation shall accrue from any such damage.
- 7: Granting of this permit does not relieve the applicant of the responsibility of obtaining any other permission, or approval from the U.S. Army Corps of Engineers, U.S. Coast Guard, New York State Office of General Services, or local government which may be required.
- 8: All necessary precautions shall be taken to preclude contamination of any wetland or waterway by suspended solids, sediments, fuels, solvents, lubricants, epoxy coatings, paints, concrete, leachate, or any other environmentally deleterious materials associated with the project
- 9: Any material dredged in the conduct of the work herein permitted shall be removed evenly, without leaving large refuse piles, ridges across the bed of a waterway or floodplain or deep holes that may have a tendency to cause damage to navigable channels or to the banks of a waterway.
- 10: There shall be no unreasonable interference with navigation by the work herein authorized.
- 11: If upon the expiration or revocation of this permit, the project hereby authorized has not been completed, the applicant shall, without expense to the State, and to such extent and in such time and manner as the Department of Environmental Conservation may require, remove all or any portion of the uncompleted structure or fill and restore the site to its former condition. No claim shall be made against the State of New York on account of any such removal or alteration.
- 12: If granted under Article 36, this permit does not signify in any way that the project will be free from flooding.
- 13: If granted under 6 NYCRR Part 608, the NYS Department of Environmental Conservation hereby certifies that the subject project will not contravene effluent limitations or other limitations or standards under Sections 301, 302, 303, 306, and 307 of the Clean Water Act of 1977 (PL 95-217) provided that all of the conditions listed herein are met.

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
SPECIAL CONDITIONS for DEC Permit No. 2-6499-00001/00002

Permit Documents

Special Condition # 1:

The documents listed below are a part of this Water Quality Certificate:

Dredging and construction shall be performed according to the following documents:

1. Final Mitigation Plan for Arthur Kill - Howland Hook Marine Terminal Deepening Project, 40/41 Plan, dated March 31, 2000.
2. Final Limited Reevaluation Report and Final Supplemental Environmental Impact Statement - Arthur Kill - Howland Hook Marine Terminal, dated December 1997.
3. Draft FONSI/Draft EA for the Selection of Potential Dredged Material Placement Sites- Arthur Kill - Howland Hook Marine Terminal, dated January 2000.
4. Letter from Frank Santaumauro, Chief, Planning Division, USACE-NYD dated July 16, 2004 and received by the Department August 18, 2004.
5. Email from Jeff Snyder, dated September 24, 2004.
6. Letter dated 22 February 2005 from Leonard Houston, USACE-NYD, Environmental Branch, outlining the revised schedule for completion of the required mitigation.
7. Letter from Leonard Houston, Chief, Environmental Analysis Branch, USACE-NYD dated March 25, 2005 requesting authorization to remove pipelines in the Arthur Kill.
8. Letter from Leonard Houston, Chief, Environmental Analysis Branch, USACE-NYD dated August 12, 2005 revising the pipeline removal description and project plans.

Special Condition # 2:

A copy of this permit, including all maps and drawings mentioned in the special conditions, is to be available on the project site at all times. Failure to produce a copy of the permit upon request by a DEC representative is a violation of this permit and is sufficient ground for an order to immediately cease all work.

Special Condition # 3:

A NYS DEC permit sign must be posted, protected from the weather, in a conspicuous outdoor location at the project site. This sign is to be posted for the duration of work authorized by this permit.

Special Condition # 4:

Within 10 DAYS of receipt of this WQ Certificate and no less than 15 DAYS PRIOR to the start of dredging, the Permittee must submit the updated Environmental Assessment.

Environmental Windows

Special Condition # 5:

Between 1 April and the end of the first week of May, a qualified biologist, selected by the Permittee and agreed upon by the Department, shall inspect Shooter's Island for the presence of nesting activity by herons or egrets. This inspection shall be conducted once each year that dredging/blasting is expected to occur within 1,000 feet of Shooter's Island. Upon completion of the inspection, Permittee shall submit a written inspection report to Dawn McReynolds at the NYS DEC Region 2 office.

- a. If no active nests are observed, avian protective measures will not be required.
- b. If nesting is confirmed, the following protective measures shall be implemented:
 - i. No blasting and/or dredging activity shall occur within 1,000 feet of Shooter's Island from 1 April - 31 July.

DEC PERMIT NUMBER 2-6499-00001/00002	PROJECT NAME USACE Arthur Kill 40'/41' Deepening	PAGE <u>4</u> OF <u>8</u>
--	--	----------------------------------

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
SPECIAL CONDITIONS for DEC Permit No. 2-6499-00001/00002

- ii. The Permittee shall use marker buoys every 200 feet or less (except within the existing federal channel) to indicate the 1,000 foot restricted area.

Special Condition # 6:

To protect winter flounder, dredging and blasting is limited as follows in the 'areas of concern' depicted in green on the attached Appendix 1 map. The areas selected were agreed to by all the involved regulatory agencies and in no way suggest that the New York State Department of Environmental Conservation has regulatory control over activities occurring outside its borders.

- a. Dredging of silt is prohibited in the areas of concern between 01 February and 31 May.
- b. Dredging and blasting of non-silt material is prohibited in the areas of concern between 01 March and 31 May.

Locating Pipelines

Special Condition # 7:

Complete removal of overburden is not authorized; this modification is meant for investigative purposes only.

Special Condition # 8:

Pipeline removal is not authorized by this permit modification. Pipeline removal will require separate authorization from the Department.

Special Condition # 9:

Use of heavy machinery in tidal wetlands is prohibited.

Pipeline Removal

Special Condition # 10:

Pipelines must be cut and removed at the top of slope line unless leaving them in place would create a hazard to navigation.

Special Condition # 11:

Sidecasting of overlying sediments is not permitted in removal areas that are landward of the top of slope.

Special Condition # 12:

All material that is sidecast for the purposes of pipeline removal must be removed within sixty (60) days of sidecasting, or by 31 December 2005, whichever comes first.

Special Condition # 13:

All sidecast materials must be managed so as to maintain the integrity of the navigation channel and must not create a hazard to navigation.

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
SPECIAL CONDITIONS for DEC Permit No. 2-6499-00001/00002

Dredging and Placement of Sediments

Prior to Start of Dredging:

Special Condition # 14:

Design drawings indicating the sediment type and volume to be dredged within each contract reach shall be provided to DEC at least 90 days prior to the anticipated dredging start date for a given reach.

Special Condition # 15:

A bathymetric survey (no more than 6 months old) for each contract reach shall be provided to DEC at least sixty (60) days prior to the anticipated dredging start date for a given reach.

Special Condition # 16:

A sediment sampling plan for purposes of conducting bulk sediment chemistry analysis for each contract reach shall be submitted for DEC approval in coordination with the state of New Jersey at least 60 days prior to the anticipated dredging start date for a given reach.

Special Condition # 17:

Sediment test results shall be submitted at least 30 days prior to the anticipated dredging start date of any project contract reach to verify the applicability of the restrictions stated in Special Condition #22.

Special Condition # 18:

At least thirty days prior to the start of dredging, the Permittee shall identify the disposal locations(s) for each type of material to be dredged, and submit this information to the Department in writing.

Special Condition # 19:

An 'environmental bucket' is required for dredging silt and other fine-grained unconsolidated material. Drawings and performance specifications of the environmental bucket must be provided to the Department 15 days prior to the anticipated start date of dredging.

- a. The following bucket specifications are required:
 - i. The bucket shall be constructed with sealing gaskets or overlapping sealed design at the jaws, and seals or flaps positioned at locations of vent openings to minimize the loss of material during transport through the water column and into the barge.
 - ii. Any seals or flaps designed and/or installed at the jaws and locations of vent openings must tightly cover these openings while the bucket is lifted through the water column and into the barge. If excessive loss of water and/or sediments from the bucket is observed from the time of its breaking the water surface to crossing the barge gunwale, the inspector shall halt dredging operations and inspect the bucket for defects. Operations shall be suspended until all necessary repairs or replacements are made.

Special Condition # 20:

Notification in writing to the DEC for each Contract Reach (1-4) is to be given at the start of work, upon any resumption of work after more than six months of inactivity, and the completion of work allowed by this permit.

During Dredging Operations:

Special Condition # 21:

A certified Army Corps of Engineers inspector shall monitor project operations regularly, and is responsible for ensuring that the project is being conducted in compliance with Special Conditions 6 and 15 of this Water Quality Certificate.

DEC PERMIT NUMBER 2-6499-00001/00002	PROJECT NAME USACE Arthur Kill 40'/41' Deepening	PAGE <u>6</u> OF <u>8</u>
--	--	----------------------------------

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
SPECIAL CONDITIONS for DEC Permit No. 2-6499-00001/00002

Special Condition # 22:

An 'environmental bucket' is required for dredging silt and/or other fine-grained unconsolidated material.

- 1: Bucket hoist speed shall be limited to approximately 2 feet per second. The bucket shall be lifted in a continuous motion through the water column and into the barge.
- 2: The bucket shall be lowered to the level of the barge gunwales prior to the release of load.
- 3: There shall be no barge overflow when dredging silt and/or other fine-grained unconsolidated material.

Special Condition # 23:

Silt curtain(s) must be deployed across Bridge Creek to minimize resuspended sediments entering Bridge Creek. The silt curtains are to be placed 100 feet landward of the new top of slope of the channel, as depicted on the condition survey titled 'New York Harbor Arthur Kill Channel Navigation Improvement Project Contracts 1-5', sheet 3 of 6, dated 8 May 2003. Silt curtain(s) must be properly deployed and maintained whenever dredging operations are conducted within 1,500 feet of the mouth of Bridge Creek.

Post Dredging and Upland Placement:

Special Condition # 24:

A post dredge survey shall be submitted to DEC within ninety (90) days of the completion of dredging for each contract reach.

Special Condition # 25:

Offloading of Dredged Materials: Should the Permittee select and the Department approve an upland placement site in New York, the Permittee is required to submit an offloading procedures plan for Department approval. The offloading procedures plan must be designed to include methods necessary to prevent the loss of dredged material from entering the waterway during the offloading process and must not conflict with any requirements at the upland placement site.

Monitoring Requirements

Special Condition # 26:

At least sixty days prior to the commencement of the project, the Permittee shall consult with DEC staff on development of the following required monitoring programs:

- 1: An analysis of vessel-generated wake impacts on shoreline erosion. Said analysis shall include an assessment of pre- and post-construction shoreline conditions and wake environment in the project area.
- 2: Impacts to benthic habitat. A pre- and post-construction assessment of benthic habitat and benthic utilization of the deepened areas of the channel. Said analysis shall include physical characterization of bottom substrate, a description of the benthic community, and an assessment of Winter Flounder spawning activity and Blue Crab overwintering activity.
- 3: Mitigation site monitoring. As discussed in the Final Mitigation Plan dated May 19, 2000, the final monitoring plan shall be modified to incorporate components of the New York State Salt Marsh Restoration and Monitoring Guidelines. Within 30 days of the effective date of this WQ Cert, Army Corps staff shall meet with Program staff to discuss the necessary modifications.

DEC PERMIT NUMBER 2-6499-00001/00002	PROJECT NAME USACE Arthur Kill 40'/41' Deepening	PAGE <u>7</u> OF <u>8</u>
--	--	----------------------------------

Mitigation Requirements

Special Condition # 27:

Mitigation activities are to be completed as scheduled in the letter submitted by the Permittee on 22 February 2005 and accepted by the Department. Failure to adhere to said schedule constitutes a violation of this permit and may result in an enforcement action by the Department.

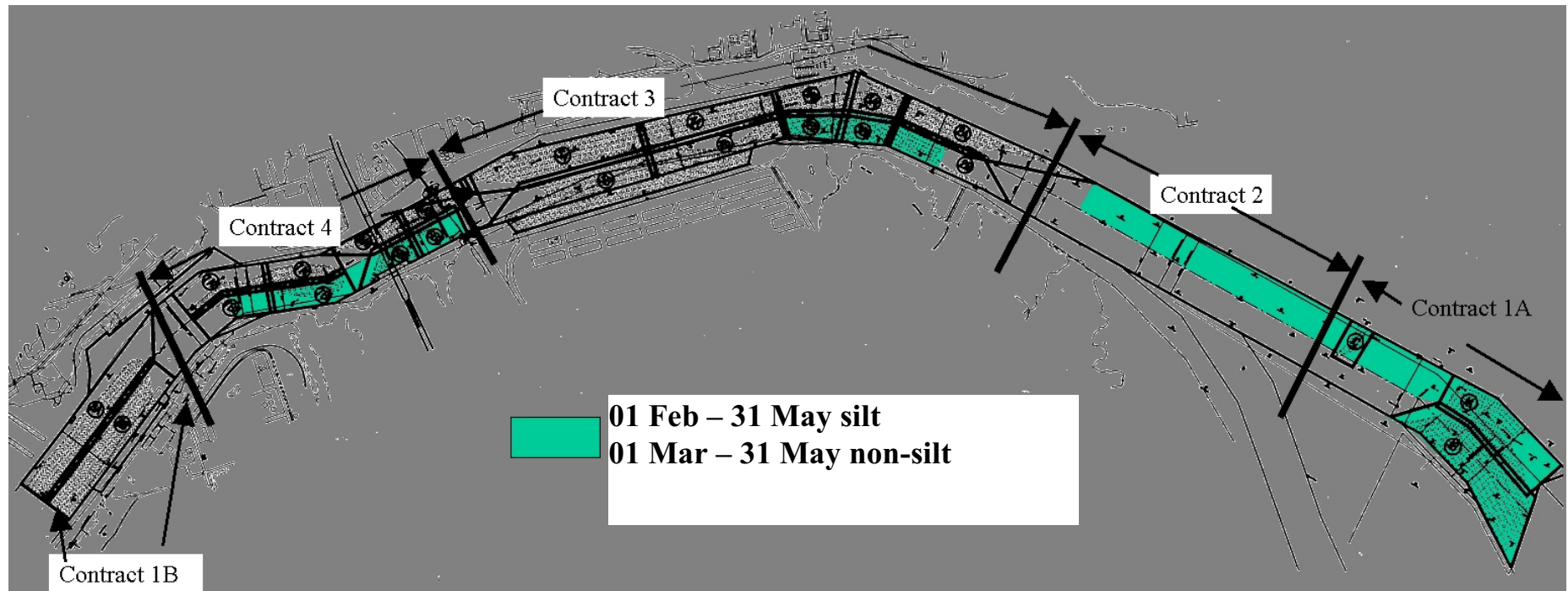
Indemnity

Special Condition # 28:

Item A and General Condition 6 are included by the State of New York as the permit issuing authority under the Clean Water Act. Such conditions do not, nor are they intended to, apply to, abrogate, or annul any obligation, responsibility or liability on the part of the Port Authority of New York and New Jersey to the Federal Government under the terms of a Project Cooperation Agreement (PCA) entered into by those two agencies for the Arthur Kill-Howland Hook Terminal, New York and New Jersey Project. Pursuant to that PCA, the Port Authority of New York and New Jersey remains legally responsible to hold and save the Federal Government free from all damages arising from the construction, operation, and maintenance of the Project and the local service facilities, and if the Port Authority requests such, for any Project-related betterments, including liabilities arising from Item A and General Condition 6, except for damages due to the fault or negligence of the Federal Government or its contractors. No provision of this permit shall be deemed to supercede applicable federal law with regard to appropriation of funds or liability for damages caused by the Army Corps or its agents or other representatives.

Appendix 1

DEC Permit Number 2-6499-00001/00002



DEC PERMIT NUMBER 2-6499-00001/00002	PROGRAM/FACILITY NUMBER USACE Arthur Kill 40'/41' Deepening	
--	---	--